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July 25, 2003

Via Electronic Filing

Marlene R. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: ***Ex Parte***
CC Docket Nos. 96-262, 01-92

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission's rules, this will provide notice that on July 24, 2003, Wanda Montano, Vice President – Regulatory, US LEC Corp. and the undersigned met with: (1) Christopher Libertelli, Office of Chairman Powell; (2) Jessica Rosenworcel, Office of Commissioner Michael J. Copps; (3) Matt Brill, Office of Commissioner Kathleen Q. Abernathy; (4) Scott Bergmann, Office of Commissioner Jonathan S. Adelstein; and (5) John Stanley, Debra Weiner, and Paula Silberthau, Office of General Counsel, and Victoria Schlesinger, Wireline Competition Bureau. We presented the views set forth in the attached document, which was provided at the meetings.

Sincerely,



Patrick J. Donovan



US LEC CORP.

- Wanda Montano, Vice President Regulatory Affairs
 - July 24, 2003

US LEC CORP. COMPANY OVERVIEW



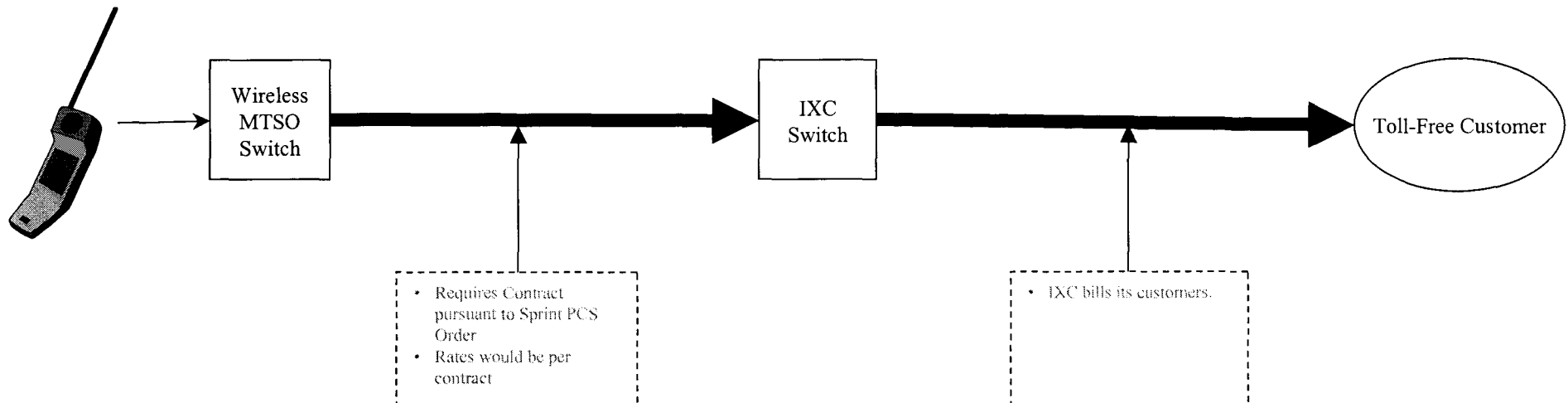
- Headquartered in Charlotte, NC
- 12,000 small, medium- and large-sized business customers
- 70 markets served
- Offers local, long distance, calling card, dedicated Internet access, digital private line and frame relay services
- Net revenue for 1st Quarter 2003 totaled \$73.1M
- Fully funded business plan

CMRS ARRANGEMENTS

- 8YY originating traffic.
- Percentage of access.



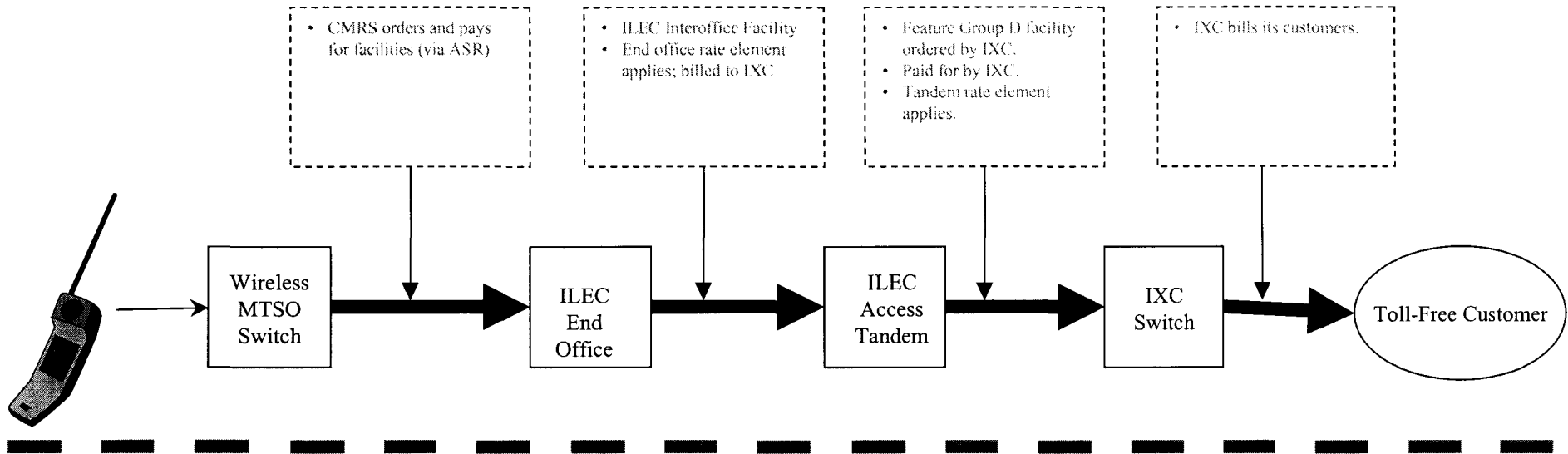
CHOICE A: DIRECT CONNECTION BETWEEN CMRS PROVIDER AND IXC



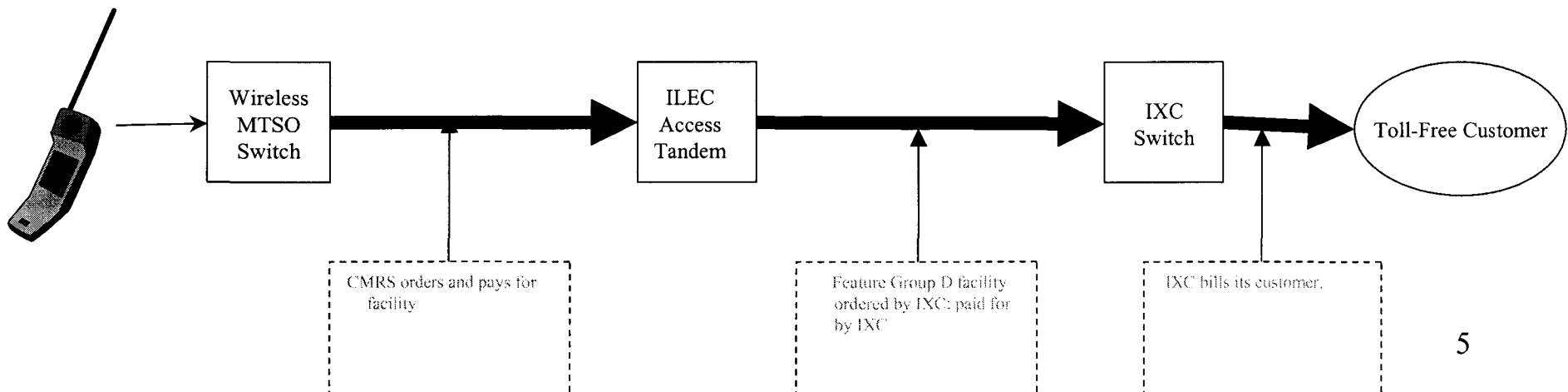


CHOICE B: CMRS CARRIER CHOOSES ILEC

Scenario B-1

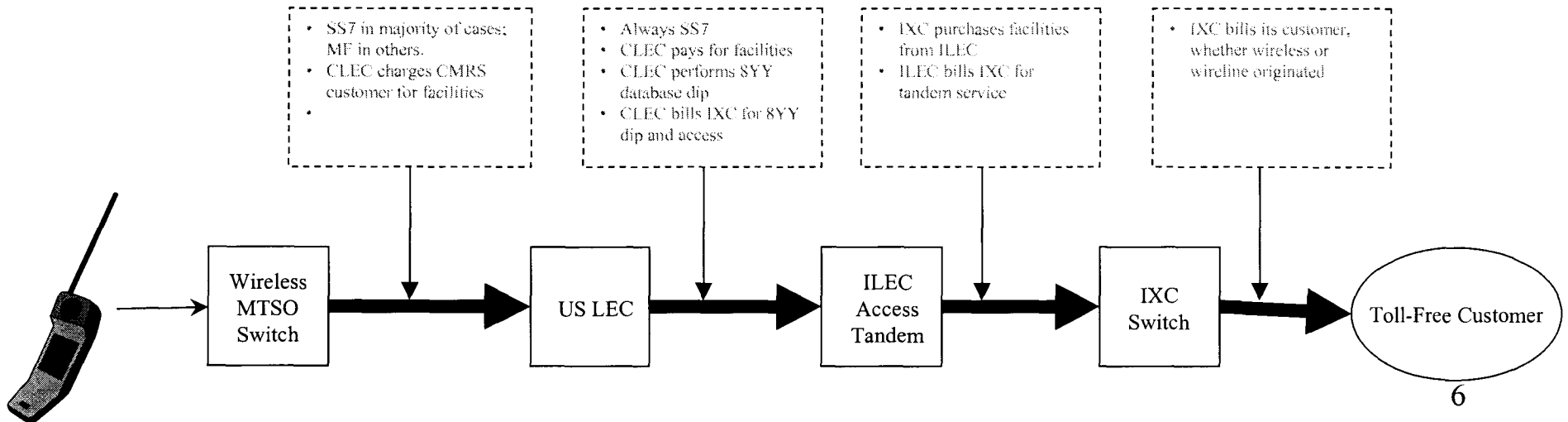
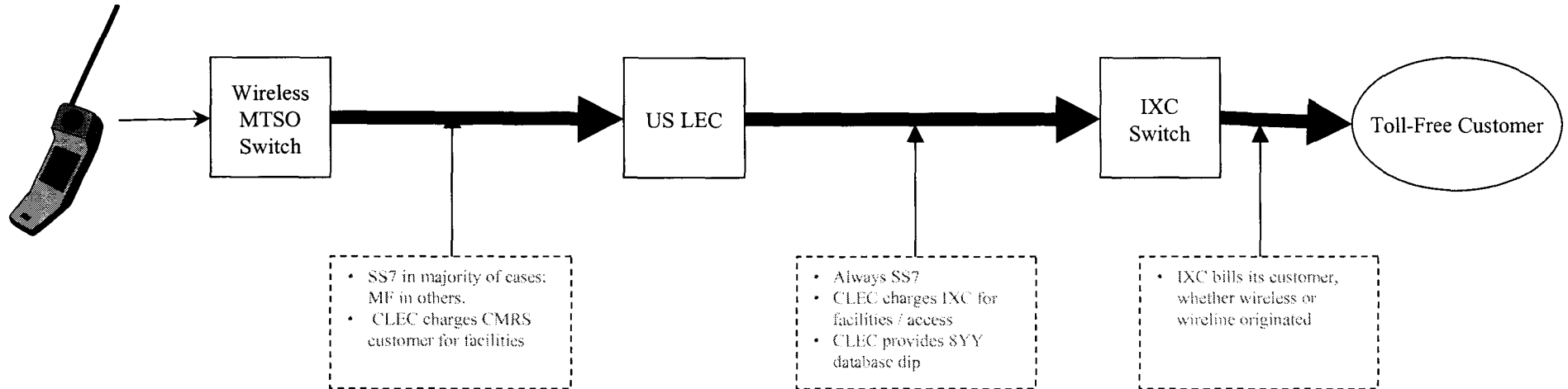


Scenario B-2





CHOICE C: CMRS CHOOSES US LEC



BENEFITS

- New access arrangements reflect the growth of facilities-based competition.
- Network efficiencies captured by CLEC and CMRS providers.
- 8YY arrangements a market entry strategy.
- IXC's have marketplace solutions.
 - IXC's may establish direct connections to CMRS providers or negotiate with CLECs.

SPRINT DECLARATORY RULING

- Does not apply to CLECs.
- CLECs governed by Calling Party Network Pays (“CPNP”) benchmark regime.

SPRINT DECLARATORY RULING

- Commission said that CMRS access arrangements are lawful, but that absent a contract, CMRS providers could not collect because CMRS access had been detariffed.
- Decision backfired because IXCs have no incentive to negotiate.

TIMELINE

- 1983 - CPNP access regime established post-divestiture.
- 1996 - CLECs offer exchange access pursuant to 96 Act.
- Mid- 90s - CLEC/CMRS access arrangements initiated under CPNP regime.

TIMELINE (Cont'd)

- April, 2001 - *CLEC Benchmark Order* modifies CNPN regime for CLECs.
 - Presumption of lawfulness for benchmark compliant tariffs.
- July, 2002 - *Sprint Declaratory Ruling*
- September, 2002 - US LEC Petition for Declaratory Ruling

LEGAL CONCERNS

- Sprint Declaratory Ruling did not address CLECs.
- No APA notice of any intent to modify the preexisting CPNP benchmark regime applicable to CLECs.
- Order did not purport to address CLECs or CPNP regime.

LEGAL CONCERNS (Cont'd)

- FCC may not now interpret its previous interpretation to apply to CLECs.
- There are limits to the Commission's ability to make retroactive interpretive rulings.

INTERCARRIER COMPENSATION PROCEEDING

- CLEC wireless access issues should be addressed in this proceeding.
- Commission should ask for comment in forthcoming *Further NPRM*.
- Prospective treatment only.

CLEC BENCHMARK RECONSIDERATION PROCEEDING

- No record on CMRS issues.
- Petitions for reconsideration do not address CMRS issues.

CLEC BENCHMARK RECONSIDERATION PROCEEDING

- Qwest Petition for Reconsideration - Carve-Out for ILEC Tandem Function
- Benchmark rate derived and constructed as a composite rate.
- There is no practical way for CLECs under current rules to set separate rates for each rate element, and certainly not retroactively.

CLEC BENCHMARK RECONSIDERATION PROCEEDING

- Commission must have understood that pending full facilities-based competition there could be some duplication of ILEC functions.
- Transition rates were intended to preserve CLEC revenues.
- Any change must be prospective only.

SUMMARY

- Current arrangements consistent with rules applicable to CLECs.
- Any changes must be prospective only.
Intercarrier Compensation Proceeding the appropriate proceeding.
- *CLEC Benchmark Reconsideration Proceeding* does not address wireless access issues.